

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated July 24, 2007. A Petition for Extension of Time (two months) and the fee therefor are submitted herewith.

Claims 1-38 are the claims currently pending in the present application.

Claims 1, 9, 14, 16, 18, 21, 25, 28, 31, 33 and 38 are amended to clarify features recited thereby.

Rejection of Claims 1, 2, 33 and 38 under 35 U.S.C. § 102

Claims 1, 2, 33 and 38 are rejected under 35 U.S.C. § 102(b) as being anticipated by Zvenyatsky (5,383,888), in view of Klieman (5,827,323). Reconsideration of this rejection is respectfully requested.

Claims 1 and 38 require a sliding member supported at the distal end portion of the connecting rod such that the sliding member is pushed to slide in a distal direction to open the pair of jaws. Further, claim 33 requires a sliding member supported at the distal end portion of the connection means such that the sliding member is pushed to slide in a distal direction to open the pair of jaws.

The Office Action cites the yoke 56 of Zvenyatsky as corresponding to the sliding member. Zvenyatsky discloses that the yoke 56 is attached to a flexible pull cable 58 such that when the surgeon squeezes the pivoting handle 16, the plunger member 66 pulls cable 58 in a proximal direction, which causes corresponding axial movement of the yoke 56 (Zvenyatsky, column 6, lines 2-8; Figs. 4F and 6).

Zvenyatsky does not disclose any kind of pushing on the sliding member by a connecting rod or by a driving rod connected to the connecting rod, as required by independent claims 1 and 38. Further, Zvenyatsky does not disclose any kind of pushing on the sliding member by a connection means, as required by independent claim 33. In fact, Zvenyatsky does not disclose or suggest a connecting rod with a proximal end portion supporting a first driving rod, as further required by claims 1 and 38, or a connection means having rigidity which connects the distal end portion of the first driving rod to the sliding member to hold a rotational state and an open/closed state of the pair of jaws, as further required by claim 33.

As discussed in the previous Amendment, with no intention to limit the claims, an effect and advantage of a device according to an aspect of the present disclosure may be that, given any rotational position of the treatment section with respect to the insertion section 2, the treatment can be carried out while the jaws have the opening/closing force required and maintain an optimal opening/closing angle.

Klieman does not cure the above-cited deficiencies of Zvenyatsky as they relate to the above-noted features of independent claims 1, 33 and 38. Klieman discloses a surgical instrument for endoscopic and general surgery in which a tubular barrel 10 includes a first elongated member 32 and a second elongated member 34 (Klieman, column 7, lines 46-51), each elongated member 32 and 34 having at its respective distal end a rack 33 and 35 which mates with gear teeth 46 of end effector piece 44 and with gear teeth 42 of end effector piece 40, respectively (Klieman, column 7, line 61 – column 8, line 4; Figs. 2B and 2C). This allows pivoting of the end effector piece 44, including simultaneous pivoting of both end effector pieces 40 and 44 (Klieman, column 8, lines 10-37). Accordingly, even taken together in combination, Zvenyatsky and Klieman do not disclose or suggest the recitations of independent claims 1, 33 and 38.

Claim 2 depends from claim 1 and thus is patentably distinguishable over the cited art for at least the same reasons.

Rejection of Claims 3-5, 17-24, 27-33 and 38 under 35 U.S.C. § 103

Claims 3-5, 17-24, 27-33 and 38 are rejected under 35 U.S.C. § 103 as being obvious from Zvenyatsky in view of Klieman, further in view of Forman (5,275,608). Reconsideration of this rejection is respectfully requested.

Forman discloses an endoscopic instrument but does not cure the above-cited deficiencies of Zvenyatsky and Klieman as they relate to the above-noted features of independent claims 1, 33 and 38. Moreover, the Office Action does not allege that Forman discloses or suggests the above-noted features of claims 1, 33 and 38. Therefore, since claims 3-5, 17-24, and 27-32 depend from independent claim 1, they are patentably distinguishable over the cited art for at least the same reasons.

In view of the foregoing discussion, withdrawal of the rejections and allowance of the pending claims is respectfully requested.

Regardless of the foregoing, since allowable claims 6, 26 and 34 have been rendered in independent form, they and their dependent claims 7, 8, 9 and 35 should now be formally allowed.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

Should the Examiner have any questions regarding the present Amendment, or regarding the application generally, the Examiner is invited to telephone the undersigned attorney at the below-provided telephone number.

Respectfully submitted,

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